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IN THE

Supreme Court of the United States

OCTOBER TERM, 1966

No. 984

ERWINE LAVERNE, ESTELLE LAVERNE and LAVERNE, INC.,
Appellants,

v.

INCORPORATED VILLAGE OF LAUREL HOLLOW and HOWARD CORNING, JR., individually, and as Mayor of the Incorporated Village of Laurel Hollow; and HUTCHINSON DUBOSQUE, ORIN LEACH, JOHN MACKAY and DOUGLAS DESPARD, individually, and as Trustees of the Incorporated Village of Laurel Hollow; and MARTIN DWYER, individually and as Chairman of the Planning Board of the Incorporated Village of Laurel Hollow; and HUGH JOHNSON, individually, and as Building Inspector of the Incorporated Village of Laurel Hollow; and EDWARD J. MEEHAN, individually, and as Police Sergeant of the Incorporated Village of Laurel Hollow,

Appellees.

ON APPEAL FROM THE COURT OF APPEALS,
STATE OF NEW YORK

MOTION TO DISMISS

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Counsel for Individual Appellees.

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Of Counsel:
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ERWINE LAVERNE, ESTELLE LAVERNE and LAVERNE, INC.,
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v.

INCORPORATED VILLAGE OF LAUREL HOLLOW and HOWARD CORNING, JR., individually, and as Mayor of the Incorporated Village of Laurel Hollow; and HUTCHINSON DUBOSQUE, ORIN LEACH, JOHN MACKAY and DOUGLAS DESPARD, individually, and as Trustees of the Incorporated Village of Laurel Hollow; and MARTIN DWYER, individually and as Chairman of the Planning Board of the Incorporated Village of Laurel Hollow; and HUGH JOHNSON, individually, and as Building Inspector of the Incorporated Village of Laurel Hollow; and EDWARD J. MEEHAN, individually, and as Police Sergeant of the Incorporated Village of Laurel Hollow,

Appellees.

ON APPEAL FROM THE COURT OF APPEALS,
STATE OF NEW YORK

MOTION TO DISMISS

Appellees, pursuant to Rule 16 of the Revised Rules of the Supreme Court of the United States, move that this appeal from an order of the New York Court of Appeals, entered on July 7, 1966, be dismissed on the grounds that the order rests on an adequate non-federal basis and that Appellant is not the real party in interest and may not maintain this appeal.

Opinions Below

The opinions and orders of the courts below are found at pages A-1 through A-14 of the Appendix to the Jurisdictional Statement. The following opinions are also reported:

First appeal to the Appellate Division: 22 A.D. 2d 826, 255 N.Y.S. 2d 146 (1964);

Second appeal to the Appellate Division: 25 A.D. 2d 564, 267 N.Y.S. 2d 756 (1966);

Appeal to the Court of Appeals: 18 N.Y. 2d 635, 272 N.Y.S. 2d 780, 219 N.E. 2d 294 (1966).

Questions Presented

Was the dismissal of Appellant's complaints affirmed by the New York Court of Appeals on the non-federal ground of Appellant's "totality of conduct" over an extended period, which constituted wilful disobedience of an order directing him to submit to a pre-trial examination?

May the Appellant prosecute this appeal even though a receiver has been appointed for him pursuant to an order specifically transferring the causes of action herein to the receiver?

Statement of the Case

In 1950 the Incorporated Village of Laurel Hollow brought an action in the Supreme Court of the State of New York, Nassau County, to enjoin Appellant and his co-plaintiffs in these actions from using their premises (not the former Tiffany Estate Mansion but a building on the Estate) in the Village for the purposes of manufacturing and processing wallpaper and related products in violation of the Building Zone Ordinance of the Village. After a full trial on the merits, a judgment was entered permanently

enjoining Appellant and others from conducting such business and commercial activities, and that judgment was affirmed and made more stringent by the Appellate Division and the Court of Appeals of New York, in that it specifically directed the removal of all of the manufacturing facilities, e. g. screens, vats, etc., from the premises.[1]

In wilful disregard of the foregoing injunction and specific direction, Appellant and his co-plaintiffs did not remove such facilities and continued to use the premises for the prohibited purposes from 1954, when the permanent injunction became final, until early in 1963, when the illegal operations were finally terminated as a result of various actions by the Village detailed below. Contrary to the erroneous averments in the Jurisdictional Statement (pp. 6, 14), between 1954 and 1962 the Village took no further action whatsoever, assuming in good faith, albeit mistakenly, that Appellant and his co-plaintiffs were obeying the mandates of the New York courts. There were no prosecutions in 1954 or in any other year during such period. It was not until July, 1962 that the Building Inspector of the Village quite by accident, while conducting a routine inspection of buildings in the Village pursuant to statutory authority, found that Appellant and others were still using the same facilities for manufacturing and processing wallpaper on the property.

Following further inspections of the property in October and December, 1962 and January, 1963, the Village applied for and obtained two orders adjudging Appellant and his co-plaintiffs to be in contempt of court for having disobeyed the permanent injunction and fining them for such contempt. The orders of contempt were subsequently reversed on the ground that they were obtained as a result of unlawful searches.[2]

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[1] *Incorporated Village of Laurel Hollow* v. *Laverne Originals, Inc.*, 283 App. Div. 795, 128 N.Y.S. 2d 326 (2d Dept. 1954), *aff'd.* 307 N.Y. 784, 121 N.E. 2d 618.

[2] *Ibid.*, 17 N.Y. 2d 900, 271 N.Y.S. 2d 996, 218 N.E. 2d 900 (1966).

Because of their apparent intention to continue the illegal operations even after they had been held in contempt, the Village in 1963 also proceeded against Appellant, his co-plaintiffs and their employees pursuant to the provisions of its Building Zone Ordinance in criminal proceedings in the Police Justice Court of the Village. Although the Village obtained convictions of Appellant and the other defendants in the criminal proceedings for violations of the Building Zone Ordinance, the convictions of Appellant were set aside by the Court of Appeals of New York on the above described ground, namely that the evidence, on which they were based, was obtained through investigations of the subject property without benefit of a search warrant and was inadmissible.[3]

Immediately after the aforesaid convictions in February, 1963, the first of these companion actions by Appellant and his co-plaintiffs to recover the sum of $2,150,000 was commenced in Supreme Court, Nassau County, against the Village and various of its elected and appointed officers and officials. The causes of action herein are for alleged theft of "trade", artistic and professional secrets, alleged trespass and alleged *prima facie* tort.

Thereafter in March, 1963, the Village instituted an action for civil penalties for violations of its Building Zone Ordinance against Appellant, his co-plaintiffs in these actions and their employees. An award of partial summary judgment in favor of the Village was reversed on the same ground that Appellant's convictions and the contempt orders were reversed. Nevertheless the action (and indeed all three causes of action alleged in the complaint therein) is still pending in Supreme Court, Nassau County, although a three-year statute of limitations prevents recovery by the Village for violations occurring prior to March, 1960.[4]

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[3] *People* v. *Laverne*, 14 N.Y. 2d 304, 251 N.Y.S. 2d 452, 200 N.E. 2d 441 (1964).

[4] *Incorporated Village of Laurel Hollow* v. *Laverne, Inc.*, 24 A.D. 2d 615, 262 N.Y.S. 2d 622 (2d Dept. 1965).

The second of the instant actions was instituted in August, 1963, and the two have been treated as one action for all purposes ever since.

After completion of pre-trial depositions of certain of the Appellees, a notice to take the deposition of Appellant was served on April 15, 1964 on behalf of the individual Appellees. Appellant moved to vacate said notice on the ground that any testimony he might give might tend to incriminate him. This motion was denied pursuant to an order, entered on May 7, 1964, directing Appellant to appear for examination on May 29, 1964. (A-1, Appendix to Jurisdictional Statement). On that day Appellant appeared but refused to answer any questions, except to state his name, on the ground of the privilege of self-incrimination. (Transcript, EBT, May 29, 1964).

On June 26, 1964, the Appellees moved in both actions to strike the complaints of Appellant and his co-plaintiffs on the ground that the plaintiffs could not on the one hand maintain these actions to recover the sum of $2,150,000 and on the other hand hide behind the privilege against self-incrimination as to all questions asked (except his name) when defendants sought in good faith to conduct examination before trial. In his decision of July 16, 1964 (A-1-6, Appendix to Jurisdictional Statement), Justice Suozzi denied the motion as to plaintiffs Estelle Laverne and Laverne, Inc. and denied the motion as to Appellant on condition that he appear for further examination, answer the non-incriminating questions that had been asked on May 29, 1964, submit any questions that might tend to incriminate him to the appropriate Justice then sitting and otherwise conduct himself in accordance with the terms of the decision. All three plaintiffs appealed from the order entered on that decision, and on November 30, 1964 the Appellate Division, Second Department, unanimously affirmed as to Appellant and dismissed the appeals by Estelle Laverne and Laverne, Inc.[5]

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[5] *Laverne* v. *Incorporated Village of Laurel Hollow*, 22 A.D. 2d 826, 255 N.Y.S. 2d 146 (2d Dept. 1964).

The order of the Appellate Division directed Appellant to appear for further examination either at a time to be agreed upon by counsel or pursuant to a ten-day notice to be served upon Appellant's attorneys. Failing to obtain a stipulation, Appellees served a notice on December 4, 1964 to continue the deposition of Appellant on December 16, 1964 and at the same time served a notice to take the deposition of Laverne, Inc. by Erwine Laverne, its president, on the same day. A copy of the order of the Appellate Division directing the continued examination of Appellant was not served until December 11, 1964.

On December 15, 1964, Appellant and his counsel appeared at court, but objected to the continuation of Appellant's deposition solely on the ground that the notice thereof should have been served together with and not prior to service of a copy of the Appellate Division order. Justice Smith sustained this technical objection (Transcript of December 15, 1964 Hearing Before Justice Smith), and a new notice was served on December 16, 1964, rescheduling the continuation of Appellant's deposition for December 28, 1964. (Transcript of December 28, 1964 Hearing Before Justice Farley).

On December 15, 1964, counsel for Appellant also objected to the holding of the deposition of Laverne, Inc., first on the ground that such deposition was stayed by the Appellate Division and when and after it became apparent that Justice Smith would overrule the first objection, second on the ground that Laverne, Inc. was a bankrupt in proceedings in the United States District Court for the Eastern District of New York. Counsel at that time represented unequivocally that he had first learned of the bankruptcy proceedings on the morning of that day, December 15, 1964. (Transcript of December 15, 1964 Hearing Before Justice Smith). Within days Appellees proved that counsel for Appellant had in fact been aware and had concealed from Appellees the fact of the bankruptcy since as early as June 22, 1964, some six months before. (Transcript of December 28, 1964 Hearing Before Justice Farley).

It was subsequently held that Laverne, Inc. could not take advantage of the belated revelation of its bankruptcy to avoid examination before trial (A-7-9, Appendix to Jurisdictional Statement), and the dismissal of its complaints in these actions was affirmed by the Appellate Division, subject to the condition that the trustee in bankruptcy should be given an opportunity to intervene within a specified time if he so desired.[6] No such intervention has taken place, the time therefor has expired and Laverne, Inc. did not appeal to the Court of Appeals. Thus the dismissal of its complaints, is not an issue before this Court despite the somewhat misleading manner in which the notices of appeal to this Court and the Court of Appeals of New York and the Jurisdictional Statement have been worded. The foregoing facts with respect to Laverne, Inc. are recited solely for the purposes of clarifying the record as to the question of who is and who is not an Appellant, and to show the tactics employed by the corporate plaintiff, similar to those of Appellant, to evade examination before trial. (Compare similar and most recent concealment, *infra*, at p. 9).

On December 22, 1964, Appellees were served with papers in support of a motion for a protective order vacating or modifying the aforesaid notice served on December 16, 1964 to continue the deposition of Erwine Laverne on December 28, 1964. Appellees regarded that motion as a nullity on the ground that it was made in the improper forum. Although this contention was upheld by Justice Robinson, it was rejected by the Court of Appeals of New York.[7]

In any event, defendants were ready to continue the deposition of Appellant on December 28, 1964, but there was no appearance that day by either Appellant or his

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[6] *Ibid.*, 25 A.D. 2d 564, 267 N.Y.S. 2d 756 (2d Dept. 1966).

[7] *Ibid.*, 18 N.Y. 2d 635, 636, 272 N.Y.S. 2d 780, 781, 219 N.E. 2d 294 (1966).

counsel, and a transcript was made before Justice Farley in which Appellant's default was noted. (Transcript of December 28, 1964 Hearing Before Justice Farley).

Thereafter, upon motion of Appellees, in a decision rendered on February 3, 1965 Justice Robinson of the Supreme Court, Nassau County, dismissed the complaints of both Appellant and Laverne, Inc., holding that their attempts to evade the examinations were "wilful and deliberate" and "prejudicial to the defendants' rights." (A-6-10, Appendix to Jurisdictional Statement). Such dismissal was upheld by the Appellate Division except, as previously noted, that Court modified the order and judgment of the Supreme Court, Nassau County, to the extent of giving the trustee in bankruptcy of Laverne, Inc. an opportunity to intervene in the litigation, which as noted he did not do. The Appellate Division, after reviewing the same facts recited hereinabove, said:

> ". . . In our opinion there is ample evidence that plaintiff Erwine Laverne has wilfully failed to purge himself of his prior disobedience of an order directing him to submit to a pretrial examination . . ."[8]

Taking advantage of the modification by the Appellate Division with respect to Laverne, Inc., Appellant appealed to the Court of Appeals, which unanimously affirmed the dismissal of his complaints. The Court of Appeals specifically held:

> ". . . [T]he Court properly dismissed the complaint —in the sound exercise of its judicial discretion— because of plaintiff's willful failure to purge himself of his disobedience of prior court orders compelling disclosure on matters relevant to his causes of action and defenses thereto (CPLR 3126) . . ."[9]

and

> ". . . The Appellate Division affirmed this dismissal because *Laverne's totality of conduct* evidenced a

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[8] *Ibid.*, 25 A.D. 2d 564, 267 N.Y.S. 2d 756.

[9] *Ibid.*, 18 N.Y. 2d 635, 636, 272 N.Y.S. 2d 780, 781, 219 N.E. 2d 294, 295.

> wilful failure 'to purge himself of his prior disobedience', a factual determination supported by the evidence and beyond the scope of this Court's review . . . ." (Empasis added.) [9]

Having thus determined the appeal on the basis of Appellant's "totality of conduct", the Court of Appeals went on to discuss and resolve Appellant's constitutional argument in favor of Appellees, holding that in civil litigation the Fifth Amendment privilege against self-incrimination is not available when used by a plaintiff as an affirmative weapon to frustrate the judicial process.[10]

This appeal is from the order entered in the Court of Appeals of New York on July 7, 1966. Although the papers filed incorrectly convey the impression that there is more than one Appellant before this Court, in fact Erwine Laverne is the sole Appellant. Estelle Laverne was not affected by the order and judgment of the Supreme Court, Nassau County, and her actions have not been dismissed.[11] Laverne, Inc. was foreclosed from taking any further proceedings when its trustee in bankruptcy failed to intervene following the opportunity to do so provided by the Appellate Division.

During the preparation of this motion, it was brought to the attention of counsel for Appellees for the first time from outside sources and not by Appellant (who now again has deliberately attempted to conceal from the courts a material fact) that on December 30, 1965, pursuant to an order of the Supreme Court of the State of New York, New York County, a receiver was appointed for Appellant, and that such order specifically transferred title to the causes of action herein to the receiver (A-1, Appendix to Motion). The receiver has never been substituted for Appellant, and, therefore, this appeal, as was Appellant's appeal to the Court of Appeals of New York, is being

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[10] *Ibid.*

[11] New York CPLR, Section 5511.

prosecuted by a party who no longer has any interest in these actions. (Compare Laverne, Inc.'s concealment of the fact of its bankruptcy outlined above at p. 6). Although Appellant has filed a notice of appeal to this Court from the affirmance of the order appointing the receiver, it is difficult to conceive how such an appeal presents a substantial question for decision by this Court.

ARGUMENT

1. The Appeal Was Decided on Non-Federal Grounds.

Analysis of the opinions of the New York courts, and particularly the opinion of the Court of Appeals, can lead only to the conclusion that Appellant's complaints were dismissed on the non-federal ground of the wilful and deliberate course of conduct followed by Appellant to evade examination before trial, which started with the first motion for a protective order and culminated in the belated revelation to the courts and to Appellees of the bankruptcy of Laverne, Inc., a last ditch maneuver attempted by Appellant despite two directions by the Supreme Court, Nassau County, and one by the Appellate Division to submit to examination. It was Appellant's disobedience of such directions that led to the dismissal of his complaints and not, as urged by Appellant, because of his exercise of the privilege against self-incrimination.

Because the appellate courts of New York based their affirmance of the dismissals of Appellant's complaints on the basis of his "totality conduct", they were not required to reach the question of Appellant's use of the privilege. Nevertheless the orders and opinions of the Supreme Court, Nassau County, show a concern for and a protection of the privilege consistent with the requirements of the Fifth and Fourteenth Amendments. In deciding Appellant's original motion for a protective order, Justice Gulotta clearly

recognized Appellant's right to exercise the privilege although properly holding that possible self-incrimination was not a ground for vacating the notice of examination (A-1, Appendix to Jurisdictional Statement). When Appellees moved to dismiss these actions for the first time, Justice Suozzi denied the motion, saying:

> "To avoid further and unnecessary motion practice, the order to be submitted hereon, or any other orders or notices for other examinations of the plaintiffs in both actions, will provide that they shall be held at the Courthouse, so that rulings on the claim of privilege may be obtained as the examination progresses and the privilege is claimed. The plaintiff will have ample opportunity at the time an incriminating question is asked to claim the privilege, and upon statement in detail of his basis for the claim, obtain a ruling . . ." (A-4-5, Appendix to Jurisdictional Statement).

It was following the affirmance by the Appellate Division (22 A.D. 2d 826, 255 N.Y.S. 2d 146) of the order entered upon Justice Suozzi's decision that Appellant embarked on the second phase of his campaign to avoid examination at all costs, to-wit: a technical objection to service of the notice of examination, the last minute revelation of the bankruptcy of Laverne, Inc., and the second motion for a protective order despite three directions to appear for examination. None of these maneuvers had anything to do with the privilege against self-incrimination.

Little wonder, that, based on the foregoing facts, as well as Appellant's conduct at the abortive examination on May 29, 1964 and the tactics employed by Appellant and counsel to avoid examination of Laverne, Inc., the Appellate Division held that Appellant had wilfully failed to purge himself of his prior disobedience of an order directing him to submit to examination. (25 A.D. 2d 564, 267 N.Y.S. 2d 756). It is to be noted that the Appellate Division made no mention of and did not rest its decision on the question of the

exercise by Appellant of the privilege against self-incrimination. The Court of Appeals recognized that Appellant's "totality of conduct" was the basis of the affirmance by the Appellate Division and held that this factual determination was beyond its power to review. (18 N.Y. 2d 635, 636, 272 N.Y.S. 2d 780, 781, 219 N.E. 2d 294, 295).

When an appeal is from a judgment of a State court which clearly rests on a non-federal ground, this Court has consistently refused to decide a federal question even though raised by the Appellant in the lower court, *Black* v. *Cutter Laboratories*, 351 U.S. 292, 298, 765 Ct. 824, 827, 100 L. Ed 1188 (1956); *Herb* v. *Pitcairn*, 324 U.S. 117, 125-126, 65 S. Ct. 459, 462-463, 89 L. Ed 789 (1945), and a plain reading of the Court of Appeals' decision leaves no doubt that that court considered Appellant's "totality of conduct" to be a matter separate and distinct from the constitutional argument raised by Appellant.

Appellees submit that the conclusion is inescapable that the Court of Appeals' decision in this case rests squarely on non-federal ground and, therefore, this appeal should be dismissed. If, however, this Court should not agree and should decide that the statement by Court of Appeals with respect to Appellant's exercise of the privilege against self-incrimination is necessary to the resolution of this case, then it is submitted that the federal question presented is not a substantial one, and that there is nothing contained in the decision of the Court of Appeals in this case or in *Levine* v. *Bornstein*, 13 Misc. 2d 161, 174 N.Y.S. 2d 574 (Sup. Ct. 1958), *aff'd.* 7 A.D. 2d 995, 183 N.Y.S. 2d 868 (2d Dept.), *aff'd. without opinion* 6 N.Y. 2d 892, 190 N.Y.S. 2d 702, 160, N.E. 2d 921 (1959), which is inconsistent with the prior decisions of this Court. Even Appellant concedes that *Levine* v. *Bornstein, supra*, may be supportable (note 17, p. 17, Jurisdictional Statement), and his attempts to distinguish this case are not convincing.

2. Appellant is Not the Proper Party to Prosecute this Appeal

An order of the Supreme Court, New York County, granted on December 30, 1965 and entered on January 6, 1966, appointed a receiver of the property of Appellant and directed the receiver to assume control of, among other things, "various claims and causes of action . . . claimed by Erwine Laverne . . ." (A-3, Appendix to Motion to Dismiss).

It would appear that the law of New York is controlling in this Court with respect to the rights of the receiver, *Cf. 28 U.S.C. § 959(b)*, and that New York requires that, in the event of the appointment of a receiver for a party to a pending action, the receiver must be substituted for the party. New York Civil Practice Law and Rules, Section 1017 provides:

> "*Substitution in case of receivership or dissolution of a corporation.* If a receiver is appointed for a party, or a corporate party is dissolved, the court *shall order* substitution of the proper parties." (Emphasis added.)

Section 1021 of the Civil Practice Law and Rules provides that when (as in this case) an event requiring substitution occurs and substitution is not made within four months of such event, the court in which an appeal by an improper party is pending may dismiss the appeal.

Conclusion

For the foregoing reasons, and particularly in view of the fact that the Court of Appeals of New York decided this case on non-federal grounds and the fact that the appeal has not been taken by the proper party, the appeal should be dismissed.

Respectfully submitted,

SPRAGUE, DWYER, ASPLAND & TOBIN,
Counsel for Individual Appellees.

THOMAS C. PLATT, JR.,
Counsel for Appellee,
Incorporated Village of Laurel Hollow.

Of Counsel:
STEPHEN VAN R. ULMAN

APPENDIX

Order of Supreme Court, New York County

At a Special Term, Part I of the Supreme Court of the State of New York, held in and for the County of New York, at the County Court House, in the City of New York, on the 30th day of December, 1965.

Present:

HON. FRANCIS T. MURPHY, JR., *Justice.*

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

PIRANESI IMPORTS, INC.,

Plaintiff and Judgment Creditor,

against

FURNITURE TEXTILES & WALLCOVERINGS, INC., ERWINE LAVERNE, DECORATIVE TRENDS, INC., LOUIS LA VERNE & DINO LEVI,

Defendant and Judgment Debtors.

The above-named Piranesi Imports, Inc., plaintiff and judgment creditor herein having moved for an order appointing a Receiver herein of the property of the above-named defendant and judgment debtor, Erwine Laverne, and the matter having come on duly to be heard at a Special Term, Part I of the Supreme Court, on the 5th day of November, 1965.

Now, upon reading and filing the notice of motion granted by the Court dated the 22nd day of November,

1965, and the affirmation of Edward Nathan dated the 22nd day of October, 1965 and the affirmation in reply of Edward Nathan dated the 8th day of November, 1965, together with Exhibits "A" to "G" inclusive attached to said reply affirmation, with proof of due service thereof upon said judgment debtor within the time and in the manner in said motion provided, and after hearing Edward Nathan, Esq., in support of said motion, and Godfrey P. Schmidt, Esq., in opposition, thereto all in support of said motion, and the affidavit of Erwine Laverne, sworn to November 4th, 1965, in opposition thereto, and after due deliberation having been had thereon. Now, on motion of Edward Nathan, Esq., attorney for Piranesi Imports, Inc., the above-named judgment creditor, it is

ORDERED that Alfred K. Weiner, Esq., of 521 5th Avenue, N. Y., N. Y., be and he hereby is appointed Receiver of the following property:

a. All assets and property of Erwine Laverne both tangible and intangible contingent or otherwise including, but not limited to:

1. The sum of $89,000.00 received in settlement by Erwine Laverne from India Airlines given by Erwine Laverne to his son, and fraudulently hidden or transferred.

2. Insurance policies and monies borrowed against these policies.

3. Payments made for Erwine Laverne's benefit by various corporations.

4. Salary owing Erwine Laverne from Laverne International, Inc.

and it is further

Order of Supreme Court, New York County

ORDERED that the receiver before entering upon his duties and in order to qualify therefor shall execute and file an oath herein that he will faithfully and fairly discharge the trust committed to him, and it is further

ORDERED that the receiver before entering upon his duties, and in order to qualify therefor shall cause an undertaking to be executed and filed herein, in the sum of $1000.00, conditioned that he will faithfully discharge his duties, and it is further

ORDERED that the receiver take into possession, assume control of and administer or collect various claims and causes of action and other intangible items or property claimed by Erwine Laverne as shall be necessary for the purposes of satisfying this judgment or to do any other acts designed to satisfy the judgment and it is further

ORDERED that the said receiver be empowered to utilize all methods of discovery to locate the assets and claims of said defendant, and to bring such action as shall reduce them to his possession, and it is further

ORDERED that the receiver sell and convert into cash so much of the said property of the said defendant, Erwine Laverne, as shall be necessary for the purposes of satisfying this judgment, and it is further

ORDERED that the said receiver out of the money and the proceeds of the sale of the said property of the said defendant, Erwine Laverne, to pay to the said plaintiff the amount of their judgment, paying the sum of $35,066.86 plus interest on $29,000.04 from April 22nd, 1964, and it is further

ORDERED that the Receiver shall keep written accounts itemizing receipts and authorized expenditures, describing

the aforementioned property and naming the depository of receivership funds, which accounts shall be open to the inspection of any person having an apparent interest in the property, and it is further

ORDERED that the said Receiver and any party to this proceeding or any person interested in the property which may be taken into hands of such Receiver may apply at any time on due notice to this Court for further or other instructions and for such further power as may be necessary to enable the Receiver to carry out properly the terms of this order and fulfill his duties as such Receiver.

Enter,

F. T. M.,

/s/ FRANCIS T. MURPHY, JR.,
J. S. C.
on 12/30/65

Filed January 6th 1966
New York County Clerk's Office